



# IDAHO PATIENT ACT

SEPTEMBER 17, 2020

# DISCLAIMER

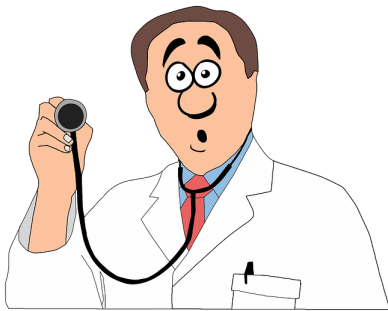
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# HISTORY

- Patient Zero
- Basic Premises
- Signed into law March 16, 2020
- Effective January 1, 2021
- Idaho Code § 48-301 et seq.

# WHO MUST COMPLY

- Any health care provider that wants to engage, directly or indirectly, in any extraordinary collection action.



- Health Care Provider:

- A physician or other health care practitioner licensed, accredited, or certified to perform health care services consistent with state law, or any agent or third-party representative thereof; or
- A health care facility or its agent.

- Health Care Facility:

- Any person, entity, or institution operating a physical or virtual location that holds itself out to the public as providing health care services through itself, through its employees, or through third-party health care providers.

- Health Care Services:

- Services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

# WHO MUST COMPLY

## Extraordinary Collection Actions

1. Prior to sixty (60) days from the patient's receipt of the **final statement**, selling, transferring, or assigning any amount of a patient's debt to any third-party, or otherwise authorizing any third-party to collect the debt in a name other than the name of the health care provider.
2. Reporting adverse information about the patient to a consumer reporting agency.
3. Commencing any judicial or legal action or filing or recording any document in relation thereto, including but not limited to:
  - i. Placing a lien on a person's property or assets;
  - ii. Attaching or seizing a person's bank account or any other personal property;
  - iii. Initiating a civil action against any person;
  - iv. Garnishing an individual's wages.

# WHO MUST COMPLY

What if we have no intention of pursuing an extraordinary collection action?

- “Nothing in this chapter shall be interpreted to restrict the ability of any person to demand and collect payment for the principal amount of any medical goods or service by means other than extraordinary collection action...”

# PROCESS & TIMELINE: STEP 1

## SUBMIT TO INSURANCE



Patient receives goods or services from a Health Care Facility



Within **45 days** of the provision of goods/services or discharge:

- Health Care Provider must submit charges to **Third-Party Payors** identified by Patient
- If none identified, submit charges to Patient

# PROCESS & TIMELINE: STEP 1

## SUBMIT TO INSURANCE

1. Where patient receives series of medical treatments billed together, the clock starts on the date the series is complete.
2. Claim can be corrected or modified outside the 45-day window, as long as the claim was initiated within 45 days.
3. Can rely on information provided by patient, even if incorrect or no payor information is provided.
4. Grace period available giving health care facilities an extra 45 days (90 days total), but will preclude recovery of costs and attorney fees in pursuing extraordinary collection action.
5. Confirm insurance information at every visit.
6. **DOCUMENT** how, when, to whom claim was submitted.



# PROCESS & TIMELINE: STEP 1

## SUBMIT TO INSURANCE

### Claim submission after date of service:

- Day 0-45 = Extraordinary collection action + fees
- Day 46-90 = Extraordinary collection action
- Day 90+ = No extraordinary collection action

# PROCESS & TIMELINE: STEP 2

## SEND CONSOLIDATED SUMMARY OF SERVICES



Within **60 days** of the provision of goods/services or discharge:

- Patient must *receive* a **Consolidated Summary of Services** from the Health Care Facility visited.

**Exception:** A Health Care Facility is not required to provide a Consolidated Summary of Services where

- The Patient receives a final statement from a single billing entity for all goods and services provided to the Patient at that Health Care Facility;
- The patient was informed in writing of the name, phone number, and address of the billing entity; **and**
- The health care facility complies with the other statutory provisions.

# PROCESS & TIMELINE: STEP 2

## SEND CONSOLIDATED SUMMARY OF SERVICES



# PROCESS & TIMELINE: STEP 2

## SEND CONSOLIDATED SUMMARY OF SERVICES

### Consolidated Summary of Services

1. Name and contact information, including telephone number, of the patient.
2. Name and contact information, including telephone number, of the health care facility that the patient visited to receive goods or services.
3. Date and duration of the visit to the health care facility by the patient.
4. A general description of goods and services provided to the patient during the visit to the health care facility, including the name, address, and telephone number of each billing entity whose health care providers provided the services and goods to the patient.
5. A clear and conspicuous notification at the top of the notice that states:

***This is not a bill. This is a summary of medical services you received. Retain this summary for your records. Please contact your insurance company and the Health Care Providers listed on this summary to determine the final amount you may be obligated to pay.***

# PROCESS & TIMELINE: STEP 2

## SEND CONSOLIDATED SUMMARY OF SERVICES

1. Can provide to patient in person upon discharge – confirm receipt by patient signature.
2. Can provide to patient via electronic communication or patient portal if patient consents in writing to such receipt.
3. If mailing by first class mail, must be sent within 57 days after date of goods/services/discharge.
4. Grace period available giving health care facilities an extra 90 days (5 months total), but will preclude recovery of costs and attorney fees in pursuing extraordinary collection action.
5. If providers are left off the facility/hospital's consolidated summary, must reconcile no later than within grace period to pursue extraordinary collection actions (without costs/fees).
6. Confirm patient addresses at every visit.
7. **DOCUMENT** how and when the consolidated summary was provided.

# PROCESS & TIMELINE: STEP 2

## SEND CONSOLIDATED SUMMARY OF SERVICES

Immediate delivery of consolidated summary of services after date of service:

- Day 0-60 = Extraordinary collection action + fees
- Day 61-150 = Extraordinary collection action
- Day 150+ = No extraordinary collection action

Mailing of consolidated summary of services after date of service:

- Day 0-57 = Extraordinary collection action + fees
- Day 57-147 = Extraordinary collection action
- Day 147+ = No extraordinary collection action

# PROCESS & TIMELINE: STEP 3

## SEND FINAL STATEMENT



Patient must *receive* a **final statement** from the health care provider.



Health care provider may not charge interest until at least 60 days have passed since patient *received* the final statement (63 days after mailed).



Health care provider may not pursue extraordinary collection action until at least 90 days have passed since patient *received* the final statement (93 days after mailed).

# PROCESS & TIMELINE: STEP 3

## SEND FINAL STATEMENT

### Final Statement

1. *The name and contact information, including telephone number, of the patient.*
2. *The name and contact information, including telephone number, of the health care facility where the health care provider provided goods and services to the patient.*
3. A list of the goods and services that the health care provider provided to the patient during the patient's visit to the health care facility, including the initial charges for the goods and services and the date the goods and services were provided, in reasonable detail.
4. A statement that a full itemized list of goods and services provided to the patient is available upon the patient's request.
5. The name of the third-party payors to which the charges for health care services were submitted by the health care provider and the patient's group and membership numbers.
6. A detailed description of all reductions, adjustments, offsets, third-party payor payments, including payments already received from the patient, that adjust the initial charges for the goods and services provided to the patient during the visit.
7. The final amount that the patient is liable to pay after taking into account all applicable reductions, including but not limited to the items identified in [#6] of this [slide].



# PROCESS & TIMELINE: STEP 3

## SEND FINAL STATEMENT

1. Final statement = first bill.
2. No timeframe for providing this to patient.
3. Must wait 63 days from mailing via first-class mail to begin charging interest or fees (60 days if sent electronically or in-person).
4. Must wait 93 days from mailing via first-class mail to begin extraordinary collection action, including waiting for final resolution of any appeals, internal reviews, or good faith disputes on amounts owed (90 days if sent electronically or in-person).
5. Users of EMR software – start working with vendors now to ensure required information can be included.
6. **DOCUMENT** how and when statement was provided, when interest began to accrue, and when ECA initiated.

# PROCESS & TIMELINE: STEP 2

## SEND CONSOLIDATED SUMMARY OF SERVICES

### Immediate delivery of final statement:

- Wait 60 days to charge interest, fees, ancillary charges
- Wait 90 days before initiating extraordinary collection action

### Mailing of final statement:

- Wait 63 days to charge interest, fees, ancillary charges
- Wait 93 days before initiating extraordinary collection action

# COMPLIANCE

- **Strict compliance with statutory requirements:**
  - Health care provider can pursue extraordinary collection action.
  - Enables recovery of fees, subject to statutory caps.
- **Relaxed compliance (e.g., within grace periods):**
  - Health care provider can pursue extraordinary collection action.
  - Cannot recover fees/costs. a
- **Burden of proof is on PROVIDER.**



# FEES & COSTS

Case Type	Provider Wins	Patient Wins
Non-Contested Judgment	Principal + Prejudgment interest + \$350*	n/a
Contested Judgment	Principal + Prejudgment interest + \$750**	All costs, expenses, fees incurred in contesting the action.
Contested Against "Willful" Debtor	If costs/fees grossly disproportionate to award amount, can petition court for supplemental award.	n/a
Non-Compliant Action	n/a	Actual damages, including costs and attorney fees or \$1,000, whichever is greater.***

\* \$350 or 100% of Principal, whichever is less; only available where strict compliance with statute.

\*\* \$750 or 100% of Principal, whichever is less; only available where strict compliance with statute.

\*\*\* If willfully or knowingly violates Act, court can award up to 3x actual damages or \$3,000, whichever is greater.



# FINAL CONSIDERATIONS

## ■ Consider:

- Documentation requirements to demonstrate compliance with every step as prerequisite to pursuing extraordinary collection action.
- Cost of filing fees and service fees take up large portion of cap.
- Providers may need to incur additional costs to collect debts.
- Risk of damage award to patients for provider's non-compliance.
- Providers can still engage in internal collection efforts.
- Effective Date: January 1, 2021
  - ECA's after that date must have preliminary steps satisfied prior to the statute's effective date.

# RESOURCES

## Idaho Code § 48-301 et seq.

<https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2020/legislation/H0515.pdf>

## Holland & Hart Health Law Blog

<https://www.hhhealthlawblog.com/>

## Holland & Hart Webinars

<https://www.hhhealthlawblog.com/webinar-recordings-and-presentations>

## Idaho Medical Association

*Preparing Your Practice for the Idaho Patient Act, [bit.ly/IdahoPatientAct](https://bit.ly/IdahoPatientAct)*

# QUESTIONS?

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